

ESTTA Tracking number: **ESTTA67666**

Filing date: **02/22/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Assist-2-Sell, Inc.
Granted to Date of previous extension	02/22/2006
Address	1610 Meadow Wood Lane Reno, NV 89502 UNITED STATES

Attorney information	Scott A. Gronek 1610 Meadow Wood Lane Reno, NV 89502 UNITED STATES sgronek@assist2sell.com Phone:775-336-4258
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Applicant Information

Application No	78551080	Publication date	10/25/2005
Opposition Filing Date	02/22/2006	Opposition Period Ends	02/22/2006
Applicant	Assist-2-Build, L.L.C. 7633 East Brainerd Road, Suite A Chattanooga, TN 37421 UNITED STATES		

Goods/Services Affected by Opposition

Class 037. All goods and services in the class are opposed, namely: Residential and commercial construction consulting

Attachments	TTAB Opposition to ASSIST-2-BUILD 022206.pdf (10 pages)
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Signature	/scott gronek/
Name	Scott A. Gronek
Date	02/22/2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Application:

Serial No.: 78/551,080
Applicant: Assist-2-Build, L.L.C.
Mark: ASSIST-2-BUILD
Published: October 25, 2005

ASSIST-2-SELL, INC.,)	
)	
Opposer,)	
)	
v.)	Opposition No.:
)	
ASSIST-2-BUILD, L.L.C.,)	
)	
Applicant.)	

Opposer, Assist-2-Sell, Inc. (“Opposer”) is a corporation duly organized and existing under the laws of the State of Nevada with its principal place of business at 1610 Meadow Wood Lane, Reno, Nevada 89502. Opposer believes it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is a franchisor of real estate brokerage offices throughout most of the United States and Canada under the ASSIST 2 SELL mark, which mark is used in various forms.
2. Opposer is the owner of U.S. Registration No. 1,744,999 for the word mark ASSIST 2 SELL for cooperative advertising and marketing services for real estate owners in International Class 35, and real estate consulting and brokerage services in International Class 36. The mark was first used in commerce at least as early as January 20, 1990.

3. Opposer is also the owner of U.S. Registration No. 1,743,808 for the design mark ASSIST 2 SELL for cooperative advertising and marketing services for real estate owners in International Class 35, and real estate consulting and brokerage services in International Class 36. The mark was first used in commerce at least as early as January 20, 1990.

4. In addition to the ASSIST 2 SELL mark, Opposer is the owner of U.S. Registration No. 2,964,718 for the word mark ASSIST 2 BUY for real estate consultation and real estate brokerage services in International Class 36. The mark was first used in commerce at least as early as February 1, 2004.

5. Opposer is also the owner of U.S. Registration No. 2,744,553 for the word mark SELLER ASSIST REALTY for realty estate brokerage services in International Class 36. The mark was first used in commerce at least as early as March 25, 2002.

6. Opposer maintains more than 500 franchise units operating under Opposer's marks throughout most of the United States, including 7 franchise units in Tennessee. Opposer's franchisees offer various real estate related services under Opposer's marks in 45 states.

7. Opposer has used its marks for a significant period of time and has developed extensive goodwill with respect thereto. Opposer and its franchisees have expended substantial sums in the advertising and promotion of their services, and by their efforts and considerable expenditures have developed an extensive and valuable reputation for the marks.

8. Opposer is informed and believes that Applicant is a Tennessee limited liability company formed on or about October 6, 2004. Opposer is also informed and believes that on or about January 20, 2005, Applicant filed an application to register the mark ASSIST-2-BUILD for residential and commercial construction consulting in International Class 37 on an Intent-To-Use basis.

9. The application for the above-identified mark was published in the Official Gazette of the United States Patent and Trademark Office on October 25, 2005.

10. Opposer is informed and believes that Applicant has offered and provided real-estate related services in Tennessee under the ASSIST-2-BUILD mark.

11. Opposer is informed and believes that the services set forth in the application for the above-identified mark are similar and/or related to the services in connection with which Opposer and its franchisees use Opposer's marks.

12. Opposer is informed and believes that the services set forth in the application for the above-identified mark are and/or will be sold through the same and/or similar channels of trade, and/or to the same general class of consumers, in and to which the services and business of Opposer and its franchisees are marketed and sold. A copy of one of Applicant's advertisements illustrating its use of the above-identified mark is attached hereto as Exhibit A. A copy of an advertisement in the same publication for one of Opposer's franchisees is attached as Exhibit B.

13. Opposer believes that Applicant is attempting to benefit from the goodwill already established by Opposer in its marks. Opposer believes that Applicant's use of the above-identified mark will create a likelihood of confusion, and will confuse the purchasing public into believing that the services or other things offered by Applicant are sponsored by or affiliated with Opposer. Opposer is informed and believes that Applicant's mark is likely to confuse Opposer's customers, potential customers, and the public generally in relation to its above-mentioned marks.

14. Opposer has not and does not consent in any way to Applicant's use or registration of the above-identified mark.

WHEREFORE, Opposer respectfully requests that the registration of Applicant's above-identified mark under application Serial No. 78/551,080 be refused and that this Opposition be sustained.

Respectfully submitted,

Scott A. Gronek, Esq.
General Counsel, Assist-2-Sell, Inc.

EXHIBIT A

VOLUME 15

FREE!

NUMBER 2

NEW HOMES

AND SUBDIVISIONS
OF CHATTANOOGA
Including Northwest Georgia

Lennox Pointe

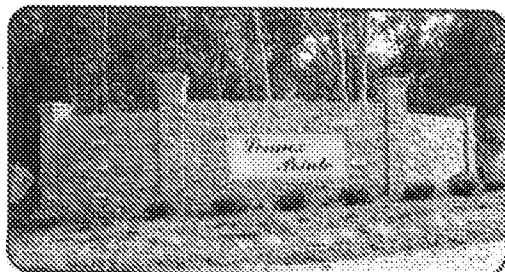
- Street Lights/Designer Mailboxes
- Sidewalks
- Underground Utilities
- County Taxes
- Soddy School System
- Natural Gas
- Sodded Yards



*Lots for Sale Starting at \$40,000
Homes from Low \$200's to Low \$300's*



*Lot 2 - Under Construction
Home Similar to Design Shown*



Lennox Pointe is located on Lee Pike in Soddy Dairy

*Tim McClure, Builder/Developer
McClure Construction Company, LLC
Mobile: (423) 595-4166
Office: (423) 847-0200
Nextel Radio #: 148*18734*5*

CALL TODAY FOR MORE INFORMATION!

For More Information On Our Homes in Brick Stone see page 89

**NEW
Inside!**



**A GUIDE TO HOME BUILDERS AND ASSOCIATED BUSINESSES
FOR NEW HOMES, TOWNHOMES, CONDOMINIUMS
& SUBDIVISIONS - INCLUDING LOTS FOR SALE**

**See
Pages
52 & 53**

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Website: www.assist-2-build.com

Email: info@assist-2-build.com

Are you ready to build a new home,
but don't know where to start?

Call Assist-2-Build

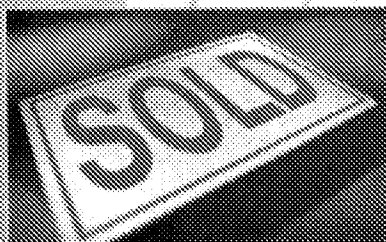
- We bid your house to local contractors to get you the best possible price.
- We take care of your construction and permanent financing.
- We work with you, not the builder.
- We give you a complete guidebook of the building process to help insure your home is built properly.
- We provide three on-site consultations during the construction of your home to answer any questions or concerns you may have.
- We work with Assist-U-Realty, LLC to sell your existing home at a substantial discount.



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EXHIBIT B

VOLUME 15

FREE!

NUMBER 2

NEW HOMES

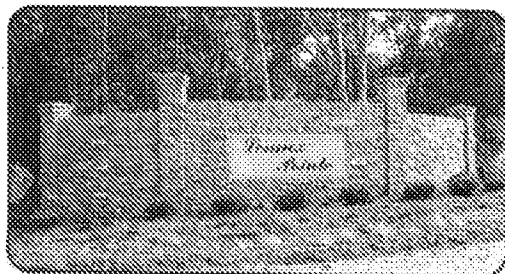
AND SUBDIVISIONS
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**NEW
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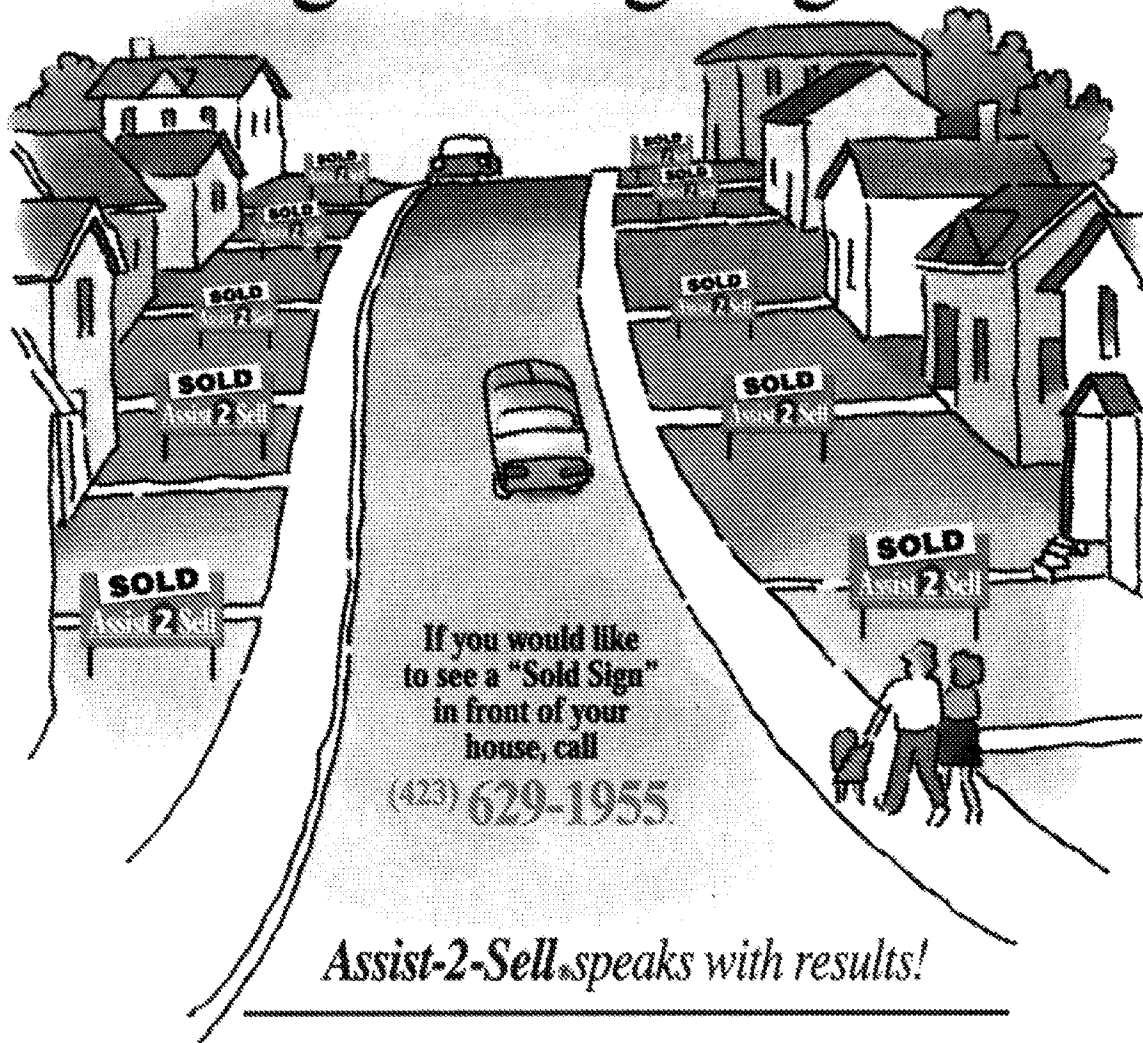


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Pages
52 & 53**

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